

**REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Final Office Action mailed on February 16, 2011, and the references cited therewith.

No claims are amended, canceled, or added by the present response; claims 31-39, 41, and 43-58 were previously canceled and claims 40, 42, and 59 were previously added; as a result, claims 1-30, 40, 42, and 59 are now pending in this application.

*Oath/Declaration*

In accordance with 37 C.F.R. 1.175(b)(1), a supplemental reissue oath/declaration under 37 C.F.R. 1.175(b)(1) must be received before this reissue application can be allowed. Claims 1-30, 40, 42, and 59 were rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. Receipt of an appropriate supplemental oath/declaration under 37 C.F.R. 1.175(b)(1) will overcome this rejection. Applicant respectfully traverses the rejection as follows.

Applicant submits herewith a supplemental reissue declaration under 37 C.F.R. 1.175(b)(1). The supplemental reissue declaration has been signed by inventors Leonard Pinchuk and Yasushi Kato.

Inventor Rysler Alcime cannot be found to sign the supplemental reissue oath/declaration. Per the decision on petition under 37 C.F.R. 1.47(a) granted on May 24, 2005, Applicant respectfully submits that inventor Rysler Alcime's signature is not necessary for the present supplemental reissue declaration because he previously could not and still cannot be found. A copy of the decision on petition is attached herewith.

As such, Applicant respectfully submits that the attached supplemental reissue declaration is signed by all of the available inventors. Furthermore, Applicant respectfully submits that an additional petition under 37 C.F.R. 1.183 requesting waiver of the signature requirement is not necessary because this case has

already been granted 37 C.F.R. 1.47(a) status with respect to the unavailable inventor, Rysler Alcime, per the attached decision on petition.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-30, 40, 42, and 59 as being based on a defective reissue declaration under 35 U.S.C. 251. Furthermore, Applicant respectfully requests allowance of claims 1-30, 40, 42, and 59.

*Allowable Subject Matter*

All claims in this reissue application were in condition for allowance with the exception of the required supplemental oath or declaration.

Applicant thanks the Examiner for the indication of allowable subject matter.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0132 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this 5<sup>th</sup> day of

May

2011.

Name

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Signature

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Respectfully Submitted,  
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